

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
AT CLARKSBURG**

**WALHONDE TOOLS, INC.,**

**Plaintiff,**

**Civil Action No. 1:09-CV-48**

**v.**

**Judge Keeley**

**WILSON WORKS, INC., a West Virginia  
corporation, NORTHCO CORP., a West  
Virginia corporation, NAES POWER  
CONTRACTORS, INC., a successor by  
merger to American Boiler & Chimney  
Company, a Washington corporation,  
MINNOTTE CONTRACTING  
CORPORATION, a Pennsylvania  
corporation, FOSTER WHEELER ZACK,  
INC., a Delaware corporation, DAY &  
ZIMMERMAN NPS, INC., a Delaware  
corporation,**

**Defendants.**

**DEFENDANT WILSON WORKS, INC.'S  
MARKMAN RESPONSE BRIEF**

Defendant, Wilson Works, Inc. (“Wilson Works”) files this Markman Response Brief in accordance with the Court’s Scheduling Order of September 18, 2009, Document 76.

The Scheduling Order required every party to file a Markman Brief by September 1, 2010. However, the Plaintiff, Walhonde Tools, Inc., failed to file a brief.

Wilson Works therefore respectfully requests that the Court adopt its claim constructions provided in the Markman Brief it filed September 1, 2010, Document 133 (“Defendant Wilson Works, Inc.’s Markman Brief”). Wilson Works further requests that the Plaintiff be prohibited from disputing those claim constructions because of Plaintiff’s failure to file its Markman Brief.

Dated: September 15, 2010

**WILSON WORKS, INC.**

**By Spilman Thomas & Battle, PLLC**

/s/ James A. Walls

James A. Walls, Esq. (WV Bar No. 5175)  
49 Donley Street, Suite 800  
P.O. Box 615  
Morgantown, WV 26507-0615  
(304) 291-7920 (T)  
(304) 291-7979 (F)  
jwalls@spilmanlaw.com

Richard W. James, Esq.  
Ryan M. Debski, Esq. (WV Bar No. 10652)  
One Oxford Centre, Suite 3440  
301 Grant Street  
Pittsburgh, PA 15219  
(412) 325-3301 (T)  
(412) 325-3324 (F)  
rjames@spilmanlaw.com  
rdebski@spilmanlaw.com

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WALHONDE TOOLS, INC.,

Plaintiff,

v.

Civil Action No. 1:09-CV-48

WILSON WORKS, INC., a West Virginia corporation, NORTHCO CORP., a West Virginia corporation, NAES POWER CONTRACTORS, INC., a successor by merger to American Boiler & Chimney Company, a Washington corporation, MINNOTTE CONTRACTING CORPORATION, a Pennsylvania corporation, FOSTER WHEELER ZACK, INC., a Delaware corporation, DAY & ZIMMERMAN NPS, INC., a Delaware corporation,

Judge Keeley

Defendants.

**CERTIFICATE OF SERVICE**

I hereby certify that on September 15, 2010 a true and correct copy of the foregoing "Defendant Wilson Works, Inc.'s Markman Response Brief" was filed with the Court using the Court's CM/ECF system, which will provide notice to the following:

Robert R. Waters, Esq.  
Jason A. Poling, Esq.  
Waters Law Group, PLLC  
633 Seventh Street  
Huntington, WV 25701  
*Counsel for Plaintiff*

Christopher S. Morris, Esq.  
Bailey & Glasser, LLP  
209 Capitol Street  
Charleston, WV 25301  
and  
Jack A. Wheat, Esq.  
Christina L. Ryan, Esq.  
Stites & Harbison, PLLC  
400 West Market Street, Suite 1800  
Louisville, KY 40202-3352  
*Counsel for NAES Power Contractors*

Eric G. Soller, Esq.  
Pietragallo Gordon Alfano Bosick  
& Raspanti, LLP  
One Oxford Centre, 38<sup>th</sup> Floor  
Pittsburgh, PA 15219  
and

Robert J. D'Anniballe, Jr., Esq.  
Pietragallo Gordon Alfano Bosick  
& Raspanti, LLP  
3173 Main Street  
Weirton, WV 26062  
*Counsel for Minnote Contracting Corporation*

Carl L. Fletcher, Jr., Esq.  
Bowles Rice McDavid  
Graff & Love, LLP  
600 Quarrier Street  
Charleston, WV 25325  
and  
Henry J. Renk, Esq.  
Fitzpatrick, Cella, Harper & Scinto  
1290 Avenue of the Americas  
New York, NY 10104-3800  
*Counsel for Foster Wheeler Zack, Inc.*

John C. Palmer, IV, Esq.  
Robinson & McElwee, PLLC – Charleston  
P.O. Box 1791  
Charleston, WV 25326  
and

Eric S. Marzluf, Esq.  
James J. Kozuch, Esq.  
1635 Market Street, 11<sup>th</sup> Floor  
Philadelphia, PA 19103-2212  
*Counsel for Day & Zimmerman NPS, Inc.*

And that a true and correct copy was served by  
first class, U.S. mail upon the following:

Northco Corp.  
P.O. Box 2100  
Morgantown, WV 26502

/s/ James A. Walls  
James A. Walls